

806 KAR 38:080. Health maintenance organizations' reserve funds.

RELATES TO: KRS 304.38-070, 304.38-130

STATUTORY AUTHORITY: KRS Chapter 13A, 304.2-110, 304.38-150

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.38-150 provides that the Commissioner of Insurance may adopt reasonable rules and administrative regulations that he deems necessary for the proper administration of KRS Chapter 304.38. KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and administrative regulations necessary for or as an aid to the effectuation of the Kentucky Insurance Code. This administrative regulation specifies when a health maintenance organization is no longer considered to be financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.

Section 1. A health maintenance organization shall not be considered to be financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees if the commissioner determines that the health maintenance organization has failed to possess and maintain for the protection of its enrollees a reserve as a portion of its net worth equivalent to one and one-half (1 1/2) months of actual incurred medical, hospital, secondary care, administrative, and solicitation expense as reported in the health maintenance organization's annual financial statement filed with the commissioner for the immediately preceding year. For its initial year of operation, the health maintenance organization's reserve shall be based upon projected medical, hospital, secondary care, administrative, solicitation expense as estimated in its application for a certificate of authority.

Section 2. Application of this Administrative Regulation. (1) Health maintenance organizations holding a certificate of authority in good standing with the executive director on July 15, 1986, need not comply with the 1986 amendment to KRS 304.38-070 (1986 Ky. Acts c. 437, sec. 28), but shall comply with Section 1 of this administrative regulation. However, such health maintenance organizations need not comply with Section 1 of this administrative regulation if they obtain capital stock of \$1,000,000 and surplus of \$250,000 (if a corporation) or capital accounts of \$1,250,000 (if a partnership), and maintain such capital stock and surplus or capital accounts. Health maintenance organizations receiving a certificate of authority after July 15, 1986, need not comply with Section 1 of this administrative regulation, but shall comply with the 1986 amendment to KRS 304.38-070 (1986 Ky. Acts c. 437, sec. 28).

(2) Notwithstanding the other provisions of this administrative regulation, the Commissioner of Insurance may take whatever steps necessary to assure that a health maintenance organization is financially responsible and may reasonably be expected to be able to meet its obligations to enrollees or prospective enrollees, including, but not limited to, maintaining reserve funds based on a percentage of incurred, medical, hospital, secondary care, administrative, and solicitation expense reported in the health maintenance organization's last financial statement filed with the Commissioner of Insurance.

Section 3. Effective Date. This administrative regulation shall become effective upon its approval pursuant to KRS Chapter 13A. (10 Ky.R. 510; eff. 11-2-83; Am. 13 Ky.R. 2111; eff. 8-5-87; TAm eff. 8-9-2007; Crt eff. 2-26-2020; TAm eff. 3-10-2020.)